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Dominican Republic

Country Reports on Human Rights Practices - [2004](#)

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The Dominican Republic is a representative constitutional democracy with an executive branch headed by an elected president, a bicameral legislature, and a separate judiciary. In August, President Leonel Fernandez of the Dominican Liberation Party (PLD) retook office after a generally free and fair presidential election, replacing President Hipolito Mejia of the Dominican Revolutionary Party (PRD). The PRD continued to control the Senate, with 29 of 32 seats, and held 72 out of 150 seats in the Chamber of Deputies; the remaining seats in the Chamber of Deputies were divided between the PLD (42 seats) and the Social Christian Reform Party (PRSC) (36 seats). The Constitution provides for an independent judiciary; however, internal corruption and interference from outside authorities remained a problem.

The National Police, the National Department of Investigations (DNI), the National Drug Control Directorate (DNCD), the Airport Security Authority (CESA), Port Security Authority (CESEP), and the armed forces (army, air force, and navy) form the security forces. The National Police maintained internal security in conjunction with the military. The military's domestic responsibilities include maintaining public order and protecting persons and property. The police are under the Secretary of the Interior and Police; the military, CESA, and CESEP are under the Secretary of the Armed Forces; and the DNI and the DNCD, which have personnel both from the police and from the military, report directly to the President. While civilian authorities generally maintained effective control of the security forces, there were some instances in which elements of the security forces acted independently of government authority. Some members of the security forces committed a number of human rights abuses.

The country has a diversified market-based economy and a population of approximately 8.8 million, including an estimated 650,000 undocumented Haitians. Tourism, telecommunications, and exports from Free Trade Zones (FTZs) were major sources of foreign currency and providers of employment. Remittances from abroad exceeded \$2.5 billion. Economic growth for the year was estimated at 2 percent. Inflation was estimated at an annual rate of 29 percent. Wages and benefits did not keep pace with inflation.

The Government's human rights record remained poor; although there were some improvements in a few areas, serious problems remained. Members of the security forces continued to commit unlawful killings. The police and, to a lesser degree, the military, tortured, beat, or otherwise abused suspects, detainees and prisoners. Prison conditions ranged from poor to harsh. Police arbitrarily arrested and detained suspects and suspects' relatives. Lengthy pretrial detention and long trial delays continued to be problems. The authorities sometimes infringed on citizens' privacy rights, and police entered private homes without judicial orders. Journalists and editors practiced self-censorship. The Government restricted the movement of Haitian and Dominican-Haitian migrants and forcibly expelled some of them. Other serious problems included violence and discrimination against women; child prostitution; abuse of children; discrimination against persons with disabilities; and severe discrimination against and abuse of Haitian migrants and their descendants. Trafficking in persons was a serious problem, although the Government increased its investigations of traffickers. There continued to be reports of forced labor. Some workers were not able to organize freely and continued to face unsafe labor conditions. Child labor was a serious problem.

The Government made some advances in improving respect for human rights and worker rights. Notably, a new Criminal Procedures Code took effect in September that provided suspects with additional protections. A new Code for Minors took effect in October that provided for additional protections and stiffer sanctions in cases of sexual or commercial exploitation. The judiciary continued to consolidate its independence and carry out reforms aimed at greater efficiency and due process. Additional military and police units received training in human rights. A new penitentiary school began training guards and administrators. Congress passed a law allowing free access to public information. The Government improved its capacity to fight trafficking in persons and increased investigations of traffickers.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were no politically motivated killings by the Government or its agents; however, security forces were involved in many killings that were unlawful, unwarranted, or involved excessive use of force.

Security forces killed between 250 and 350 people during the year. In the majority of killings by police, the police stated that the deaths resulted from a gunfire exchange in the course of an arrest, which required officers to act in self-defense. A number of eyewitness accounts corroborated police reports; others did not. Many killings were related to aggressive tactics on the part of the police.

The National Commission on Human Rights reported approximately 300 killings by security forces, 20 of which occurred after a new National Police chief took control of the police department in August. A major newspaper reported 360 deaths in "exchanges of gunfire" with police during the year, including 74 such deaths from August until the end of the year. The National Police reported 75 deaths at the hands of officers between August and the end of the year, compared with 167 such killings during the same time period in 2003. According to the National Police, three of the post-August killings were unlawful. Accounts of incidents varied, and some went unreported.

According to the National Police, authorities had referred 30 cases to civilian courts for accusations of unlawful killings as of October. However, human rights organizations stated that the police employed unwarranted deadly force about as often against criminal suspects as in previous years, and uniformed vigilantism persisted on a less-than-deadly level (see Section 1.c.). The lack of qualified investigators and the nontransparent conduct of investigations of killings in "exchanges of gunfire" resulted in impunity in a number of cases.

In January, Sergeant Major Pablo Valdez Perez, Sergeant Cesar Troncoso Encarnacion, Corporal Wilson Aquino Garcia, and Corporal Nandy Beltre Espinosa rushed a car parked in front of the passenger's house at nighttime without identifying themselves as officers. The occupants tried to drive away, and the policemen opened fire, killing the passenger and injuring the driver. The case was referred to the civilian Court of Instruction in the National District. At year's end, three of the policemen were free on bail, and Beltre was awaiting a bail hearing.

Police Lieutenant Reyes Santana, known as "Tyson," and Sergeant Medina Medina were sentenced to 8 years in prison and required to pay indemnification of approximately \$33,000 (1 million pesos) for a 2001 killing in which the officers claimed that there was an exchange of gunfire with the victim.

Many cases previously referred to courts for investigation remained unresolved or resulted in the release of the accused. The Supreme Court investigation into the court-ordered release of police officer Cristino Alvarez Ventura, who shot and killed a youth in September 2003, remained pending at year's end.

There were no developments in the case of the September 2003 mistaken identity killing by police officer Rubio Blondy and another officer. The case was sent to the civilian Court of Instruction in the National District where it remained in the investigation phase.

In the case against off-duty police officers Abel Garcia and Luis Castro Concepcion for the October 2003 killing of an advertising agent, a court dismissed charges against Garcia but convicted Castro and sentenced him to 4 months in jail.

Police lieutenant Juan Bautista Berroa and his accomplices were free on bail pending trial for an unlawful killing in 2002 in San Pedro de Macoris.

Pedro Encarnacion Baez, convicted of the 2001 killing of Carmelo del Rosario, was sentenced to 15 years in jail but has been free on bail since December 2002.

A significant number of deaths occurred in custody due to negligence by prison authorities (see Section 1.c.).

There were reports of violence against demonstrators and protesters by members of the security forces, including some deaths (see Section 2.b.).

b. Disappearance

There were no reports of politically motivated disappearances.

There were no developments in the case of Narciso Gonzalez, a university professor and critic of the Balaguer Government who disappeared in 1994. In 2002, a judge ordered that former Secretary of the Armed Forces Constantino Matos Villanueva be tried in a criminal court in connection with the disappearance. The judge excluded two other individuals, General Leonardo A. de Jesus Reyes Bencosme and Air Force Colonel Manuel Concepcion Perez Volquez, from the case, although the victim's family appealed this decision. That appeal and Matos Villanueva's appeal of the decision to try him in criminal court remained pending in Santo Domingo's Court of Appeals. There was no action on the family's complaint to the Inter-American Commission on Human Rights.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution and the law prohibit such practices; however, some security forces personnel, primarily mid-level and lower-ranking police officers, continued to torture, beat, and otherwise physically abuse detainees and prisoners.

The law provides penalties for torture and physical abuse, including sentences from 10 to 15 years in prison. Civilian prosecutors sometimes filed charges against police and military officials alleging torture, physical abuse, and related crimes. New abuse and torture cases were remanded to civilian criminal courts as they arose; mid-level officers sometimes contested civilian jurisdiction (see Section 1.e.).

Senior police officials took the prohibition on torture and physical abuse seriously, but lack of supervision, training, and accountability throughout the law enforcement and corrections systems exacerbated the problem. Human rights groups reported repeated instances of physical abuse of detainees, including various forms of torture, beatings, and sexual abuse. Certain police units, called "the surgeons," intentionally shot young men in the lower extremities during nighttime patrols as part of a strategy to deter crime, resulting in a number of serious injuries and amputations.

According to human rights organizations, both the National Police and prison officials used forms of torture. The method most often used was beating. Other forms included asphyxiation with plastic bags to elicit confessions and a method called "roasting the chicken" in which the victim was placed over hot coals and turned.

Police Colonel Francisco Beras Santos, accused in 2002 of torture and sexual violation of a woman in his police station, was released for lack of evidence.

According to the National Commission on Human Rights, military and police officials reportedly beat, tortured, and randomly deported Haitians living in the border towns of Pedernales and Elias Pina (see Section 2.d.).

National District Prosecutor's lawyers monitored the investigative process to ensure that detainees' rights were respected in high-volume police stations and in several DNCD offices (see Section 1.d.). There was some evidence that assistant prosecutors at times acquiesced in traditional police practices rather than attempt to raise these practices to constitutional standards. In some instances, authorities interpreted the presence of prosecutors as meaning that detainees could be held more than 48 hours after being transferred from police custody to prosecutorial custody. However, with the implementation of the new Criminal Procedures Code in September, detainees received additional protections, and respect for detainee rights improved, including through increased enforcement of time limits for pretrial detention (see Section 1.d.).

Both the National Police and armed forces offered training courses for human rights (see Section 1.d.).

Prison conditions ranged from poor to harsh. Reports of torture and mistreatment in prisons were common. The prisons were seriously overcrowded, health and sanitary conditions were poor, and some prisons were out of the control of the authorities. The General Directorate of Prisons is under the authority of the Attorney General and was seriously underfunded. Budget allocations for necessities such as food, medicine, and transportation were insufficient. Inmates said that the food provided was unacceptable, and most sought to beg or purchase food from persons in the vicinity of the prison or to obtain it from family members. Prisoners and human rights groups alleged that prisoners were not taken to their trials unless they paid bribes to the guards (see Sections 1.d. and 1.e.). Visitors often had to bribe prison guards in order to visit prisoners. Prison officials accepted money in exchange for a recommendation that the prisoner be furloughed or released for health reasons. Prisons often did not provide

adequate medical care to inmates. In Rafey prison, 30 percent of prisoners had skin problems such as scabies, 15 percent had hypertension, and 10 percent had respiratory problems. Prisoners immobilized by AIDS or who terminal illnesses were not transferred to hospitals, although some terminal-stage inmates were released to spend their last days at home.

According to the Directorate of Prisons, the police and the military held more than 13,500 prisoners and detainees in 35 prisons with a total intended capacity of approximately 9,000. Virtually all prisons experienced extreme overcrowding. La Victoria prison, the largest in the country, held more than 3,500 prisoners in a facility designed for 1,000 and had only 354 beds for all of the inmates. Rafey prison held approximately 1,200 prisoners, although it was designed to hold only 600.

Although a warden who reports to the Attorney General was responsible for running each prison, in practice, a police or military officer (generally appointed for a period of only 3 to 6 months and responsible for providing security) was usually in charge of the prison. Some prisons were totally out of the authorities' control and were, in effect, operated by armed inmates. Individual inmates could secure a tolerable level of existence only by paying for food, sleeping space, and medical care.

The press and human rights groups also reported extensive drug and arms trafficking within the prisons, as well as prostitution and sexual abuse, including abuse of minors. In February, the DNCD uncovered a large cache of drugs, alcohol, and weapons in Rafey prison. In August, three prisoners were burned to death during a riot in Mao that began as a dispute over the control of the drug trade in the prison.

In August, the Government inaugurated the National Penitentiary School in Santo Domingo. Graduates of the school served as career prison guards (replacing military or police guards on temporary prison duty assignment) and as prison administrators. The students received training in human rights and nonviolent restraint methods, and, by year's end, graduates had been posted to a new prison in Puerto Plata.

Female inmates were separated from male inmates, and about half of the total female population was held in a female-only prison. In general, conditions in the female prison wings were better than those in male prison wings. There were some reports of guards abusing female inmates physically and sexually. There were also reports that, in the Najayo prison, guards forced women into prostitution in exchange for food and protection. Female inmates, unlike their male counterparts, were prohibited from receiving conjugal visits. Those who gave birth while incarcerated were permitted to keep their babies with them for a year.

The law requires that juveniles be detained separately from adults; however, juveniles often were mixed with the general population. The authorities sometimes treated minors as adults and incarcerated them in prison rather than juvenile detention centers.

Pretrial detainees were held together with convicted prisoners. Inmates were not separated by crime within the prison population; however, they could be put into solitary confinement for disturbances while incarcerated.

The Government permitted prison visits by independent human rights observers and by the press, and such visits took place during the year.

d. Arbitrary Arrest or Detention

The Criminal Procedures Code implemented in September prohibits detention without a warrant unless a suspect is apprehended in the act or in other limited circumstances; however arbitrary arrest and detention continued to present problems. The Constitution provides that an accused may be detained for only 48 hours before being presented to judicial authorities. It also provides for recourse to habeas corpus proceedings to request the release of those unlawfully held; however, the police continued to violate constitutional and legal provisions by detaining suspects for investigation or interrogation beyond the prescribed 48-hour limit or detaining suspects without a warrant. In particular, the police often detained all suspects and witnesses in a crime and used the investigative process to determine who were innocent and merited release, and whom they should continue to hold. Additionally, police continued to detain relatives and friends of suspects in order to pressure suspects to surrender or to confess. These practices were employed less often after the new Criminal Procedures Code came into force.

The National Police, numbering more than 27,000, serve throughout the country; there are no separate municipal forces. The Ministry of the Interior and Police is responsible for making policy decisions affecting the police force. The military is also charged with providing internal security.

According to the National Commission on Human Rights, the military and police collaborated with their Haitian counterparts at the border to accept bribes from Haitians attempting to cross illegally. The Institute of Human Dignity, a branch of the National Police which until August was headed by new Police Chief General Manuel de Jesus Perez Sanchez, monitors human rights abuses committed by members of the National Police. The Institute held more than 100 courses, seminars, and conferences, which were attended by more than 5,500 participants, including members of the National Police, armed forces, and civilians.

Training for military and DNCD enlisted personnel and officers included human rights courses. The Military Institute of Human Rights offered diploma courses in human rights and regularly sent representatives to border units to conduct mandatory human rights training. Nearly 7,000 participants from the military and civil society received training during the year.

Monitoring and sanctioning systems for abuses of human rights remained ineffective.

Police officers were fired for violent attacks, extortion, drug use, and trafficking. Significant problems of this nature remained, in part, because of insufficient vetting of the backgrounds of police recruits. It was alleged that many persons with prior criminal records were incorporated into police ranks, either under false names or with identification or recommendations from other state institutions, such as the army. Many members of the police force lacked basic education, had received inadequate training, and showed weak discipline, all factors that directly contributed to unlawful or unwarranted killings and to cruel or inhuman treatment (see Section 1.a.).

Police continued the practice of making frequent sweeps or roundups in low-income, high-crime communities in which they arrested and detained individuals arbitrarily, allegedly to fight delinquency. During these sweeps, police arrested large numbers of residents and seized property, including motorcycles, other vehicles, and weapons. Following the indiscriminate arrests, police regularly detained individuals for 20 days or more while they looked for a reason to charge them. Police stated that they relied upon unlawful detention without presentation to a court because some cases involved more complicated investigations. However, there was a clear pattern of police arrests of individuals before undertaking adequate investigation, and reliance on confessions obtained under questionable circumstances to make the cases (see Section 1.c.). Prosecutors generally did not actively investigate cases; they often depended on police reports, many of which were based on forced confessions.

A related problem was the police practice of arresting and detaining individuals solely because of a familial or marital relationship to a suspect. A suspect's parents, siblings, or spouse particularly were vulnerable to this practice, the goal of which was to compel an at-large suspect to surrender or to coerce a confession from one already arrested. The National Commission on Human Rights reported 100 such cases as of August; however, it reported no additional cases after the appointment of General Perez Sanchez as police chief.

Local human rights observers reported roundups of Haitian and Dominican-Haitian construction workers. Officials allegedly took groups of darker-skinned or "Haitian-looking" individuals to empty buildings soon after they were paid, in order to extort money from them.

Due to the historical inefficiency of the courts (see Section 1.e.), the granting of bail served as a de facto criminal justice system, and defendants awarded bail rarely faced an actual trial. In general, few defendants were granted bail, although bail became more prevalent following the implementation of the new Criminal Procedures Code, which requires judicial review of detentions at an earlier point in a criminal case.

Most detainees and prisoners could not afford adequate defense services. Several NGOs offered limited free legal services. The National Office of Judicial Defense, with foreign donor support, provided legal advice and representation to indigent persons. As of October, 22 lawyers had completed the Office's training program, and 21 were in training. These lawyers were the only full-time public defenders in the country and served only Santo Domingo, Santiago, and some smaller areas. The Supreme Court paid the public defenders' salaries without additional funding from the Government. The Supreme Court also paid 100 part-time defense lawyers across the country to provide legal services to indigent defendants. These lawyers did not provide the same level of service, often neglecting to communicate with defendants prior to scheduled court appearances; however, in July, they were incorporated into the National Office of Judicial Defense that holds them to the same performance requirements as other public defenders.

Many suspects endured long pretrial detention. According to several reports, 70 percent of the inmates nationwide were held without being charged or while awaiting trial. The average pretrial detention throughout the country was more than 6 months. Time served in pretrial detention counted toward a sentence. In an estimated 75 percent of all cases, the suspects were detained without action until the statute of limitations expired, leaving no action for the

courts to take. Only 10 percent of those charged with a crime were actually convicted. The remainder were acquitted or released without judgment.

Detainees at police headquarters in Santo Domingo reported that they were held for 15 to 21 days. Juveniles held at the Department for Minors at the Villa Juana police station commonly were held well beyond the 12-hour limit for sending the case to the district attorney's Office. The law prohibits interrogation of juveniles by the police or in the presence of police.

The failure of prison authorities to produce the accused for court hearings caused a significant percentage of trial postponements (see Section 1.e.). Inmates often had their court dates postponed because they were not taken from the prison to court, or because their lawyer or witnesses did not appear. The authorities held some inmates even though there were no formal charges against them.

A large backlog of criminal cases remained in the National District and throughout the country. There were more than 300,000 cases pending as of September 27, when the new Criminal Procedures Code took effect, although many of these cases had exceeded the statutory limitation and may be removed from the system (see Section 1.e.). The Supreme Court's plans to unclog the court dockets proceeded slowly due to budget constraints. Dockets were crowded with traffic infractions that, by statute, should have been heard in traffic courts; these courts had not been established, due to a lack of funds. Other complications in clearing the backlog arose from the lack of funds for transporting inmates to court. Many cases were rescheduled when the accused or key witnesses did not appear. In some instances, a defendant would appear before the judge on the scheduled trial date, but the trial would not go forward due to the absence of one or more co-defendants. The decision of the trial judge to decline to try co-defendant cases separately prejudiced defendants who complied with the law.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary; however, public and private entities persisted in attempts to undermine judicial independence. The judiciary received training to improve its ability to resist outside interference, but undue influence remained a problem.

The judiciary includes a 16-member Supreme Court, appeals courts, courts of first instance, and justices of the peace. There are specialized courts that handle tax, labor, land, and juvenile matters. The Supreme Court is responsible for naming all lower court judges according to criteria defined by law. The Government has established 17 of the 25 tribunals provided for by law and 5 courts of appeals for children and adolescents. The 2003 Code for Minors outlines the judicial system for criminal cases involving juveniles and family disputes.

Until recently, military and police tribunals enjoyed exclusive jurisdiction over cases involving members of the security forces; however, some cases of killings allegedly committed during the year by members of the security forces were remanded to civilian criminal courts (see Section 1.a.). The judiciary was slow to adjudicate these cases. As of October, four such cases had been referred to civilian courts.

Prior to September 27, the judicial system was based primarily on the Napoleonic Code. Judges, rather than juries, rendered all verdicts. During the investigative phase, following the arrest, suspects were questioned repeatedly and urged to confess. The law established the citizen's right not to be deprived of liberty without trial or legal formalities, or for reasons other than those provided by law; the right not to be a witness against oneself; and the right to a defense in an impartial and public trial. The authorities commonly violated these rights.

Under the pre-September 27 system, the most serious and common violations of the rights of the accused occurred when police detained suspects, sometimes for many days, without allowing them to contact family members, while subjecting them to frequent questioning (see Section 1.d.). Although entitled to have an attorney present, police often did not permit accused persons to contact legal counsel. If an attorney was engaged, a police officer might not permit him or her to be present during questioning. Torture frequently was used to coerce a confession during questioning (see Section 1.c.). The results of these interrogations often constituted the only evidence presented at the trial.

In September, a new Criminal Procedures Code replaced the old system. The Code supports an accusatory system intended to accelerate the processing of criminal cases. The Code also can be interpreted as providing that any crime may be tried in civilian court; this would imply that military or police tribunals should be used only for disciplinary actions. The changes under the new Code include: The requirement that police and prosecutors read defendants their rights upon arrest; the creation of an alternative dispute resolution mechanism to deal with certain crimes; the requirement that judges issue public oral dispositions on petitions for bail and in cases in which the

maximum penalty is less than 3 years of incarceration; and the physical relocation of the defendant and defense counsel within the courtroom so that they are adjacent to the prosecutor and in front of the judge. The Attorney General's office and the judiciary also instituted "on-call" judges to provide 24-hour support to police who require immediate attention in the issuance of arrest warrants.

Citizens have recourse to the remedy of "amparo," an action to seek redress of any violation of a constitutional right, including violations by judicial officials.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution contains provisions against arbitrary entrance into one's home except when police are in hot pursuit of a suspect or when a suspect is caught in the act of committing a crime. All other entrances require a judge to issue an arrest or search warrant; however, the police conducted illegal searches and seizures. The Dominican Human Rights Committee reported that police carried out raids on private homes in many poor Santo Domingo neighborhoods. Additionally, police continued to detain relatives and friends of suspects to pressure suspects to surrender or to confess, although the frequency of such incidents decreased significantly in the last quarter of the year.

Although the Government denied using unauthorized wiretapping and other surreptitious methods to interfere with the private lives of individuals and families, human rights groups alleged continued interference. There was an active but illegal private wiretapping industry.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law provides for freedom of speech and of the press, and the Government generally respected these rights and did not restrict academic freedom; however, there were instances of official intolerance of the media. Individuals or groups generally were able to criticize the government publicly and privately without reprisal.

Newspapers and magazines presented a diversity of opinion and criticism. There were eight daily newspapers, a number of weekly newspapers, and several online news outlets. Editors at times practiced self-censorship, particularly when coverage could adversely affect the economic or political interests of media owners.

There were many privately owned radio and television stations, broadcasting a wide spectrum of political views. The Government controlled one television station. The international media was allowed to operate freely.

There was continued criticism of the 2003 judicial takeover of the newspaper, radio, and television outlets owned by defunct bank Baninter. Ramon Baez Figueroa, majority shareholder of Baninter, was the subject of an ongoing criminal investigation for fraud and money laundering. After the judicial takeover, all editors of the outlets resigned and were replaced by government-appointed personnel. In September, the Supreme Court upheld a lower court ruling to return the media outlets to the Baez family pending the outcome of a determination on the merits of the asset seizure case.

The Government was criticized for firing popular reporters after taking control of the Baninter media. A popular program on one of the government-run radio stations was shut down in January, reportedly on the orders of the Government. A television reporter was suspended because his father, also a news personality, had appeared in a commercial for the opposition PLD party.

There were several reports of harassment of journalists. In February, authorities threatened reporters in Dajabon with detention and arrest after they criticized the government's plan to provide thousands of motorcycle taxi drivers with free or nearly free vehicles in advance of the elections.

In September, journalist Juan Andujar was killed and a colleague injured by gang members in Azua following a gun battle between the gang members and police. Andujar and other journalists were targeted by the gang, who reportedly believed that the journalists had instigated the police action by publicly denouncing cooperation between the gang and local police officials. In several shootouts, police killed five persons who were suspected of involvement in the Andujar killing.

The Government did not restrict access to the Internet.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly and association; however, the Government at times restricted these rights. Outdoor public marches and meetings require permits, which the Government usually granted. Police officers used force to break up demonstrations on several occasions during the year, sometimes causing deaths and injuries. In January, at least 6 persons were killed and more than 150 injured while protesting during a national work stoppage. More than 250 protesters were arrested.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice. The Constitution prohibits discrimination on religious grounds, and many religions and denominations were active.

The Catholic Church enjoyed special privileges not extended to other religions, under the terms of a concordat signed with the Government in 1954. For example, the Cardinal has the rank of a military general officer, and there is a Catholic church at the Presidential Palace. The Catholic Church also received public funding to cover some church expenses such as rehabilitation of church facilities. A complete waiver of customs duties on imports was extended to all religious denominations.

For a more detailed discussion, see the [2004 International Religious Freedom Report](#).

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for freedom of travel, and the Government generally respected these provisions in practice; however, there were some exceptions. For example, human rights groups alleged that many Haitians were not allowed to leave the sugarcane plantations where they worked (see Section 6.e.). Local and international human rights groups cited discrimination against Haitian migrants, who were subject to arbitrary and unilateral action by the authorities.

Haitians continued to immigrate in great numbers to the country in search of economic opportunity, and many of them were repatriated. In some cases, the Government denied expellees the opportunity to demonstrate that they were legal residents or to make arrangements for their families or property.

The Constitution provides that anyone born in the country is a citizen, except those in transit or children born to diplomats; however, NGOs reported that children born of Haitian parents in the country often were denied registration as citizens under the transit exception, even if their parents resided in the country (see Section 5). It was estimated that more than 20 percent of Dominicans did not have a birth certificate or other identity document.

While the Government had a policy of strictly enforcing documentary requirements and repatriating those found lacking documents, it had a more tolerant unofficial policy fueled by the reality of dependence on Haitian labor for certain agricultural and construction work. An individual stopped as a suspected illegal Haitian migrant might be allowed to remain in the country despite lack of documentation, either through bribery or if an account of employment satisfied the official.

The law prohibits forced exile, and there were no reports of its use.

The law provides for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention relating to the Status of Refugees or its 1967 Protocol, but the Government has not established a system for providing protection to refugees. In practice, the Government provided some protection against refoulement, the return of persons to a country where they feared persecution. This protection generally applied to individuals who had gained access to the refugee process and had been issued proof that they were refugees or had applications pending. However, the Government did not apply standards agreed upon with the office of the U.N. High Commissioner for Refugees (UNHCR) to improve receipt and adjudication of refugee claims. To help the Government in this regard, in July 2003, the UNHCR strengthened its protection activities in the country by re-establishing its presence in Santo Domingo.

An applicant for refugee status must be referred by the National Office of Refugees in the Migration Directorate to the Technical Subcommittee of the National Commission for Refugees, which is chaired by the Foreign Ministry.

The subcommittee has the responsibility of making a recommendation to the Commission, made up of members from the Foreign Ministry, the DNI, and the Migration Directorate. The Commission, with responsibility for the final decision on the application, includes the three members of the subcommittee, the legal advisor to the President and members from the National Police, the Ministry of Labor, and the Attorney General's office.

As of October, the Migration Directorate reported 212 applications awaiting decision, nearly all by Haitians. Some of these cases have been pending since 2000, when the UNHCR temporarily stopped processing cases. According to the UNHCR, there were as many as 600 recognized refugees in the country, most of whom lacked sufficient documentation to allow them to work legally and access other rights.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The President and the members of the Senate and the Chamber of Deputies are elected freely by secret ballot in alternating 4-year cycles. The Central Electoral Board conducts all elections. The Constitution was amended in 2002 to permit the president to be reelected once.

In May, PLD candidate Leonel Fernandez won the presidency in an election described as generally free and fair by the Organization of American States (OAS), the National Democratic Institute (NDI), and the International Foundation for Electoral Systems (IFES), as well as by the government electoral board and domestic NGOs. President Fernandez took office in August.

There is universal adult suffrage for documented citizens, except that active duty police and military personnel may not vote or participate in partisan political activity. During the year, several senior military officers publicly expressed their support for President Mejia's reelection and were accused of illegal partisan activities, but no legal action was taken against them.

The nation had a functioning multiparty system.

There were reports of, and a widespread perception of, corruption in government. A number of investigations into corruption by government officials were underway, including of former Attorney General Victor Cespedes Martinez of the Mejia administration, who had ordered the release of several drug traffickers on questionable grounds.

In July, Congress passed and the President promulgated a comprehensive law providing public access to government information; however, many of the requests remained pending. The law limits the availability of public information only under specified circumstances (such as to protect national security) and provides for a penalty of 6 months to 2 years in prison and a 5-year ban from positions of public trust for government officials who obstruct access to public information. A civilian court may review the decision of an agency to deny access to information.

Women and minorities confronted no serious legal impediments to political participation. By law, parties must reserve for women 33 percent of positions on their lists of candidates for city councils; in practice, the parties often placed women so low on the lists as to make their election difficult or impossible. A woman, Milagros Ortiz-Bosch was Vice President and Minister of Education in the outgoing Mejia administration. There were 2 women in the 32-member Senate and 24 women in the 150-member Chamber of Deputies. There were 5 women on the 16-seat Supreme Court and 3 in the PLD cabinet named in August.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

Principal local groups included the Dominican Human Rights Committee, the National Human Rights Commission, and the Santo Domingo Institute of Human Rights. There were also several smaller organizations, both secular and religious, that addressed, among other things, women's rights, labor issues, and the rights of Haitians.

In May, the OAS, NDI, and IFES monitored the presidential elections, as did the local NGO Citizen Participation. The OAS mission had full access to the electoral process (see Section 3).

A 2001 law created a human rights ombudsman's office with authority over public sector problems involving human rights, the environment, women's issues, youth issues, and consumer protection; however, selection of an ombudsman remained pending at year's end.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race and sex; however, such discrimination existed, and the Government seldom acknowledged its existence or made efforts to combat it.

Women

Domestic violence continued to be a serious problem. Several newspaper articles alleged that society had become more violent, and many government officials and NGOs publicly denounced the problem. A local NGO estimated that between 10 and 15 women died monthly from domestic abuse; however, many cases were unreported. Under the Law Against Domestic Violence, the State can prosecute for rape, incest, sexual aggression, and other forms of domestic violence. Penalties for these crimes range from 1 year to 30 years in prison and carry fines ranging from approximately \$20 to \$7,000 (500 to 200,000 pesos). The Secretariat of Women, as well as various NGOs, conducted outreach programs on domestic violence and legal rights. The Non-Violence Department of the Secretariat of Women received approximately 500 complaints of domestic violence cases during the year. A local NGO, the Alliance for the Rights and Development of Women, which provided services for victims of intrafamilial abuse, reported receiving more than 3,000 calls to its abuse hotline. Female victims of abuse had few resources, although the NGO Piedra Blanca opened a shelter for battered women, and the Secretariat of Women supported operation of a center for victims of domestic violence in Bani, where victims of abuse could make a report to the police and receive counseling.

According to the National Commission on Human Rights, 90 women were killed in "crimes of passion" by their spouses or lovers, compared with 140 such victims in 2003.

Rape was a serious and widely underreported problem. In 2002, the last year for which official statistics were compiled, the Secretariat of Women reported more than 3,300 complaints of sexual abuse. The penalties for committing rape are 10 to 15 years in prison (or 10 to 20 years in case of rape against a vulnerable person or under other egregious circumstances) and a fine of approximately \$3,300 to \$6,600 (100,000 to 200,000 pesos). The State may prosecute a suspect for rape even if the victim does not file charges, and rape victims may press charges against a spouse. Victims often did not report cases of rape because of fear of social stigma, as well as the perception that the police and the judiciary would fail to provide redress. The police were reluctant to handle rape cases and often encouraged victims to seek assistance from NGOs.

Prostitution is not prohibited by law, although there are some prohibitions against sex with minors and it is illegal for a third party to derive financial gain from prostitution; however, the Government usually did not enforce prostitution laws. Sex tourism grew throughout the country as the number of international visitors increased. Human rights groups reported increased prostitution in sugarcane work camps. NGOs conducted programs on prostitution and child sexual exploitation for hotel and industrial zone workers, male and female prostitutes, and other high-risk groups.

Trafficking in women and children was a problem (see Section 5, Trafficking).

The law prohibits sexual harassment in the workplace, which was considered a misdemeanor and carried a possible penalty of 1 year in prison and a fine of up to \$333 (10,000 pesos); however, the law was not enforced and sexual harassment was a problem. The Dominican Labor Foundation estimated that approximately 40 percent of female workers in the free trade zones were victims of sexual harassment by supervisors or coworkers and that women who resisted the unwanted advances of supervisors were fired, threatened, or otherwise discriminated against.

Under the law, women enjoy the same legal status as men; however, in practice, women experienced discrimination. Traditionally, women have not enjoyed equal social and economic status or opportunity with men, and men held the majority of leadership positions in all sectors. In many instances, women were paid less than men in jobs of equal content and equal skill level. Some employers reportedly gave pregnancy tests to women before hiring them, as part of a required medical examination. Union leaders and human rights advocates reported that pregnant women often were not hired, and that female employees who became pregnant sometimes were fired. There were no effective government programs to combat economic discrimination against women.

Active women's rights groups included Santiago-based NGO Nucleo de la Mujer, the Collective for Women and Health, and Profamilia.

Children

The Government declared its commitment to children's rights and welfare and tried to increase protection for children, with emphasis on eliminating child labor. The Code for Minors, which was implemented in October, recognizes the National Council for Children and Adolescents (CONANI) as a noncabinet, decentralized public agency to coordinate public policy to protect children's human rights and to administer the Code. The law stipulates that CONANI is to receive at least 2 percent of the national budget and that a minimum of 5 percent of municipal government budgets must be devoted to projects to benefit children; however, this requirement was not met.

The General Education Law provides for a free, universal, and compulsory education for all minors through the eighth grade, but legal mechanisms provide only for primary schooling, which was interpreted as through the fourth grade. The Ministry of Education reported a 97 percent enrollment rate in grades 1 through 8; however, a government study also estimated that the average grade level achieved for children in public schools was the fifth grade in rural areas and the sixth grade in urban areas. Children of Haitian descent, and of undocumented citizens experienced difficulties gaining acceptance to schooling due to their lack of official status.

The Code for Minors empowers minors to denounce their parents or guardians to the police in case of mistreatment. It also provides for removal of a mistreated child to a protective environment.

Abuse of children, including physical, sexual, and psychological abuse, was a serious problem. The Department of Family and Children reported approximately 40 cases of abuse per month in Santo Domingo. Few such cases reached the courts due to fear of family embarrassment, lack of economic resources, or lack of knowledge regarding available legal assistance. In 60 percent of the cases, the accused was a person close to the child, such as a family member or close family friend. In a highly publicized case in October, 7 individuals were accused of sexually abusing at least 29 young children at a shelter in Higuey. At year's end, all of the suspects were in detention awaiting trial.

According to local monitors, instances of child abuse were underreported because of traditional beliefs that family problems should be dealt with inside the family. The Code for Minors contains strengthened provisions against the problem areas of child abuse, including physical and emotional mistreatment, sexual exploitation, and child labor (see Sections 5, Trafficking and 6.d.). The Code for Minors provides for a penalty of between 2 and 5 years' incarceration and a fine of 3 to 5 times the minimum wage for persons found guilty of abuse of a minor. The penalty is doubled if the abuse is related to trafficking.

Trafficking and sexual exploitation of children also was a problem, particularly in popular tourist destinations (see Section 5, Trafficking). Poor adolescent girls and boys sometimes were enticed into performing sexual acts by the promise of food or clothing.

Child labor was a serious problem in the informal sector of the economy (see Section 6.d.).

Trafficking in Persons

The comprehensive Law Against Trafficking in Persons and Alien Smuggling, enacted in August 2003, prohibits trafficking of persons; however, trafficking in women and children from, to, and within the country remained a serious problem.

Several laws may be applied to prosecute those who traffic in persons. The new law against trafficking is the most comprehensive and includes penalties for traffickers of 15 to 20 years' imprisonment and a fine of 175 times the minimum wage. The Code for Minors penalizes sexual abuse of children with 20 to 30 years' imprisonment and fines from 100 to 150 times the minimum wage.

The Attorney General's anti-trafficking unit coordinated the investigation and prosecution of all trafficking cases. Units at the National Police, the Migration Directorate, and the Attorney General's office targeted trafficking in persons, as did the interagency Committee for the Protection of Migrant Women, composed of seven governmental institutions, one professional association, two NGOs, and a religious order. The Attorney General's office also created a unit specifically to investigate electronic crimes, including sexual exploitation of minors via the Internet. The Ministry of Foreign Affairs provided compulsory training at its Diplomatic and Consular School on identifying the

trafficking of citizens overseas and assisting victims. The NGO Foundation for Institutionalism and Justice conducted training for prosecutors and judges on how to implement the new anti-trafficking law.

Government agencies that had a role in combating trafficking often kept statistics only on illegal immigration, since they seldom differentiated between trafficking and illegal immigration. Not all illegal migrants were trafficked; many traveled willingly for economic motives. NGOs such as the Center for Integral Orientation and Investigation (COIN), and international organizations such as the International Organization for Migration (IOM) formulated estimates through interviews with individuals and through extrapolation. The IOM estimated that 30,000 Dominicans were trafficked in 2003, of whom approximately half were women trafficked for prostitution.

Women 18 to 25 years of age were at the highest risk of being trafficked. Many victims were uneducated single mothers desperate to improve the living conditions of their children. Principal destination countries were in Europe and Latin America, and included Spain, Italy, the Netherlands, Switzerland, Sweden, Germany, Austria, Greece, Panama, Costa Rica, Argentina, and Australia.

Within the country, the prostitution of minors, primarily in the tourist areas, was a serious problem. The press reported that up to 30,000 children and adolescents may be involved in the sex industry. An official 2003 study estimated that 50 to 60 Haitian children were trafficked into the country each week and that many Haitian girls age 12 and older were brought into the country to work as prostitutes.

In June, a raid in Boca Chica resulted in the rescue of 24 children, 1 of them only 7 years old, who were being sexually exploited. The raid, which was based on a complaint filed by the NGO International Justice Mission, resulted in five arrests. At year's end, the case was in the Court of Instruction.

In October, police in Santiago closed down a child pornography ring that posted explicit photos of young children on the Internet. Police also closed down bars in Santiago and Montecristi that were being used for child prostitution.

NGOs estimated that there were hundreds of alien smuggling and trafficking rings operating within the country. According to COIN and the IOM, trafficking organizations were typically small groups. Individuals in the country recruited the persons to be trafficked and obtained identification and travel documents. Traffickers were frequently introduced to women through friends and family; they promised some form of employment, obtained false or legitimate documents for the women, and often retained their passport once in the destination country. Trafficking organizations reportedly received \$5,000 to \$8,000 (150,000 pesos to 240,000 pesos) for trafficking a woman or child for purposes of prostitution.

Some elements within the tourist industry facilitated the sexual exploitation of children. Particular problem areas were Boca Chica, Puerto Plata, and Sosua. Foreigners overseas marketed tours by suggesting that boys and girls could be found as sex partners.

In September, the Supreme Court resumed proceedings in the trial of Congressman Guillermo Radhames Ramos Garcia (formerly a consul in Cap Haitien, Haiti) on charges of alien smuggling. Because of Ramos Garcia's status as a Congressman, the case was assigned directly to the Supreme Court.

The Government provided limited assistance to trafficking victims by working with NGOs to develop job-training programs for returned women. When trafficked individuals were repatriated from abroad, they were given a control record that went into their official police record and were interviewed by a migration inspector. According to COIN, most victims were too embarrassed or frightened to seek legal action against traffickers. The Government continued specialized training for consular officials posted in Europe on how to provide assistance to trafficked persons. COIN worked to develop relationships with embassies and consulates that serve trafficked victims and with other NGOs in destination countries that serve similar populations. There were several church-run shelters that provided refuge to children who escaped prostitution.

The Government made efforts to investigate, fire, and prosecute when appropriate public officials who facilitated, condoned, or were complicit in trafficking activities or migrant smuggling. NGOs alleged corruption among the military and migration officials stationed at border posts and noted that these officials sometimes facilitated the illegal transit of Haitian workers into the country to work on sugar plantations and construction sites (see Sections 2.d. and 6.c.). There were also elements within the Office of Migration and the national police that organized or facilitated the smuggling of aliens, including Cubans and Asians, through the international airports. For example, in September, two migration inspectors, a police captain, and an army sergeant were fired for helping two undocumented Dominicans board a flight to the United States. The matter was referred to civilian authorities.

The Department of Family and Children was concerned about kidnappings, especially of infants, for sale to foreigners who deliberately sidestepped legal formalities, including those of their own countries. The Government sought to protect children from being victimized by such tactics by making adoptions by foreigners more difficult.

COIN counseled women planning to accept job offers in Europe and the eastern Caribbean about immigration, health, and other problems, including the dangers of trafficking, forced prostitution, and domestic servitude. COIN administered the Center for Health and Migration Information for Migrant Women, which carried out community education campaigns in high risk areas on various issues, including citizenship, legal work requirements, dangers of trafficking, forced prostitution, and domestic servitude. With IOM support, COIN also provided a minimal level of clinical services and adult education classes for returned women.

Persons with Disabilities

Persons with disabilities encountered discrimination in employment and in the provision of other services. The law provides for physical access for persons with disabilities to all new public and private buildings; however, the authorities did not enforce this law uniformly. Some business owners voluntarily provided access to buildings for persons with disabilities. The Dominican Association for Rehabilitation, which has 17 branches around the country, receives a subsidy from the Ministry of Public Health to provide rehabilitation assistance to persons with disabilities. Little effort was made to design public works so as to accommodate persons with disabilities. For example, a new pedestrian bridge built over a major intersection in Santo Domingo did not have any access except by stairs.

Discrimination against persons with mental illness was common, and there were few resources dedicated to the mentally ill.

National/Racial/Ethnic Minorities

There were strong prejudices against Haitians, which disadvantaged many Haitians and Dominicans of Haitian ancestry, as well as other foreigners of dark complexion (see Sections 1.d. and 2.d.). The Government rarely acknowledged the existence of this discrimination.

Efforts by the authorities to stem the influx of illegal Haitian immigrants made life more difficult for those Haitians already in the country legally. Police regulations permit the confiscation of vehicles offering transportation to illegal immigrants, thereby discouraging taxi and bus drivers from picking up darker-skinned persons. In roundups aimed at illegal immigrants, the authorities picked up and expelled darker Dominicans as well as legal Haitian residents (see Section 1.d.).

The IOM estimated that approximately 650,000 Haitian immigrants--or 7.5 percent of the country's population--lived in shantytowns or sugarcane work camps known as "bateyes," which were harsh environments with limited or no electricity, usually no running water, and no adequate schooling. Human rights NGOs, the Catholic Church, and activists described Haitian living conditions in bateyes as modern-day slavery. In most bateyes, medical assistance either was rudimentary or not readily available. Housing in the bateyes was poor; many individuals slept in barracks on iron beds without mattresses or on dirt floors. Many families of five or more shared living quarters that measured as little as 10 feet square. Bathroom facilities, where they existed at all, were generally unhygienic, and cooking facilities were usually improvised. The availability of fresh food, including fruits and vegetables, was severely limited. Clean water was often unavailable.

Some individuals estimated that as many as 1 million Haitians lived in the country, but several Haitian rights NGOs were concerned that this estimate included Haitians born in Haiti with their offspring born in the Dominican Republic. The Government refused to recognize and document as citizens many individuals of Haitian ancestry born in the country (see Section 2.d.). Since many Haitian parents never possessed documentation for their own births, they were unable to demonstrate their own citizenship or that of their children.

Lack of documentation sometimes deprived children of Haitian descent of the opportunity to attend school, even where there was one available. When permitted to attend primary school, the children of Haitian parents rarely progressed beyond the sixth grade. A legal ordinance allows undocumented children to attend school through the fifth grade; however, some school administrators denied access to school to undocumented children, particularly Haitians. The Central Electoral Board agreed to facilitate acquisition of birth certificates by parents who could produce identity cards so that all children might have birth certificates to enroll in school; however, this did not help children whose parents had no documentation or had only Haitian identification papers. NGOs reported that undocumented Haitian children were prevented from enrolling in school to a greater degree than were similarly undocumented Dominican children.

Other Societal Abuses and Discrimination

Persons with HIV/AIDS, particularly women, faced discrimination in the workplace and elsewhere. An estimated 50 to 100 thousand people in the country were infected with the disease. According to Human Rights Watch, workers in many industries faced involuntary HIV testing in the workplace or when seeking medical care or medical insurance. Workers or patients found to have the disease could be fired from their jobs or denied adequate healthcare. The law prohibits the use of HIV testing to screen employees or for medical services unrelated to the disease; however, the law rarely was enforced.

Section 6 Worker Rights

a. The Right of Association

The Constitution provides for the freedom to organize labor unions, and all workers, except the military and the police, were free to form and join unions of their choice. Organized labor represented an estimated 8 percent of the work force. The Labor Code calls for automatic recognition of a union if the Government has not acted on its application within 30 days.

The law forbids companies to fire union organizers or members; however, it was enforced inconsistently, and penalties were insufficient to deter employers from violating worker rights. There were additional reports of intimidation by employers in an effort to prevent union activity, especially in the free trade zones (FTZs) (see Section 6.b.). The Dominican Federation of Free Trade Zone Workers (FEDOTRAZONAS) continued to report anti-union activity at the FM company in Santiago, 1 of 22 production facilities belonging to apparel manufacturing firm Grupo M, the largest private sector employer in the country. The 2003 case alleging that an FM supervisor beat an employee for attending labor union organizing meetings remained pending before a labor court in Santiago.

A court in Santiago fined the FTZ company Ramsa approximately \$660 (19,700 pesos) for violating Labor Code protections when, in 2002, it fired approximately 140 employees seeking a collective bargaining agreement. Ramsa also was found guilty of violating laws regarding maternity rights but appealed that sentence.

b. The Right to Organize and Bargain Collectively

Collective bargaining is legal and must take place in firms in which a union has gained the support of an absolute majority of the workers. Few companies have collective bargaining pacts, and the International Labor Organization (ILO) considered the requirements for collective bargaining rights to be excessive and an impediment to collective bargaining.

The Labor Code establishes a system of labor courts for dealing with disputes. While cases did make their way through the labor courts, enforcement of judgments was sometimes unreliable.

The Constitution provides for the right of workers to strike (and for private sector employers to lock out workers). Formal requirements for a strike include the support of an absolute majority of all company workers whether unionized or not, a prior attempt to resolve the conflict through mediation, written notification to the Ministry of Labor, and a 10-day waiting period following notification before proceeding with the strike. Government workers and essential public service personnel are not allowed to strike but occasionally did. Brief work stoppages and unofficial strikes were more common.

A few labor unions represented a small number of Haitian workers, who are covered by the Labor Code regardless of legal status. Some NGOs reported that the majority of Haitian laborers in the sugar and construction industries did not exercise their rights under the Labor Code, fearing deportation or job loss.

The Labor Code applies in the 40 established FTZs, which employed approximately 190,000 workers. According to the National Council of Labor Unions, only four of the unions that had achieved collective bargaining agreements in the FTZs were active. Workplace regulations and their enforcement in the FTZs did not differ from those in the country at large, although working conditions were sometimes better, and the pay was occasionally higher. Mandatory overtime was a common practice, and it was sometimes enforced through locked doors or loss of pay or jobs for those who refused (see Section 6.c.).

There were reports of widespread covert intimidation by employers in the FTZs in an effort to prevent union activity (see Section 6.a.). Unions in the FTZs reported that their members hesitated to discuss union activity at work, even

during break time, for fear of losing their jobs. Some FTZ companies were accused of discharging workers who attempted to organize unions. The majority of the unions in the FTZs were affiliated with the National Federation of Free Trade Zone Workers (FENATRAZONAS) or FEDOTRAZONAS (see Section 6.a.). FEDOTRAZONAS estimated that less than 10 percent of the workers in the FTZs were unionized. Employer resistance to union organization, especially in the FTZs, increased in response to growing competitive pressure from firms in Central American countries and China.

Many of the major manufacturers in the FTZs had voluntary codes of conduct that included worker rights protection clauses that were generally aligned with the ILO Declaration on Fundamental Principles and Rights at Work. Workers were not always aware of such codes or the principles they contained.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred (see Section 5). Some young children, particularly Haitians, were "adopted" by families and worked under a kind of indentured servitude (see Section 6.d.). There were also reports that workers in sugarcane plantations were prevented from leaving during the harvest (see Section 6.e).

d. Prohibition of Child Labor and Minimum Age for Employment

The Labor Code and the new Code for Minors prohibit employment of children less than 14 years of age and place restrictions on the employment of children under the age of 16; however, child labor was a serious problem. The ILO estimated that 18 percent of children between the ages of 15 and 17 engaged in some sort of work. Regulations applying to children between the ages of 14 and 16 limited the number of hours worked daily to 6, prohibited employment in dangerous occupations or in establishments serving alcohol, and limited nighttime work. Fines and legal sanctions may be applied to firms employing underage children.

The high level of overall unemployment and the lack of a social safety net created pressures on families to allow or encourage children to earn supplemental income. Tens of thousands of children began working before the age of 14. Child labor took place primarily in the informal economy, small businesses, clandestine factories, sugarcane fields, and for purposes of prostitution. Conditions in clandestine factories were generally poor, unsanitary, and often dangerous. There was evidence that poor Haitian and Dominican adolescents accompanied their parents to work in the cane fields, with the tacit approval of sugar companies. Children 12 years old and younger also worked planting sugarcane, earning as little as \$1 (30 pesos) for a full day of labor.

Some poor Haitian families arranged for Dominican families to "adopt" and employ their children, in hopes of assuring a more promising future for them. The adopting parents usually registered the child as their own. In exchange, the birth parents received monetary payment or a supply of clothes and food. In many cases, adoptive parents did not treat the adopted children as full family members and expected them to work in the households or family businesses rather than to attend school. This resulted in a kind of indentured servitude for children and adolescents.

The Ministry of Labor, in collaboration with the ILO's Program for the Eradication of Child Labor and other international labor rights organizations, continued programs to combat child labor. These included programs to eliminate child labor in the tomato-producing Province of Azua, the coffee-growing Province of San Jose de Ocoa, and the agricultural province of Constanza, and a program to combat the commercial sexual exploitation of minors in popular tourist destinations. The Ministries of Labor and Education continued to support the Combating Child Labor through Education Program, which established several camps that hosted more than 1,000 children and adolescents. An ILO and Ministry of Labor program in Boca Chica against the commercial sexual exploitation of minors provided psychological support and medical assistance, returned children to classrooms, and reunified children with their families and communities whenever possible. The program also provided legal assistance to child victims in order to arrest and convict exploiters. The Ministry of Education earmarked approximately \$17 (500 pesos) monthly to the poorest families to keep their children in school and away from work. The Armed Forces sponsored a program to rescue, supervise, and rehabilitate victims of child labor or those at risk and operated several walk-in programs and a permanent "village" that provided room, board, and educational activities.

There were no confirmed reports of forced child labor in the formal sector.

e. Acceptable Conditions of Work

The Constitution empowers the executive branch to set minimum wage levels for public workers, and the Labor

Code assigns this task to the National Salary Committee for the private sector, with the exception of workers in the FTZs and the sugar, construction, hotel, and shoe manufacturing industries. The minimum monthly salary was approximately \$119 (3,561 pesos) in the FTZs and \$164 (4,920 pesos) outside the FTZs. The minimum wage for the public sector was approximately \$64 (1,906 pesos) per month. The minimum wage for farm workers who are covered by the minimum wage regulations was approximately \$0.43 an hour (13 pesos), based on a 10-hour day. The national minimum wage did not provide a decent standard of living for a worker and family.

The Labor Code establishes a standard work period of 8 hours per day and 44 hours per week. The Code stipulates that all workers are entitled to 36 hours of uninterrupted rest each week. In practice, a typical workweek was Monday through Friday plus a half day on Saturday, but longer hours were common. The Code grants workers a 35 percent premium for work totaling between 44 hours to 68 hours per week and double time for any hours above 68 hours per week. Overtime was mandatory at some firms in the FTZs.

The law prohibits the imposition of HIV tests to work; however, many companies routinely tested workers or applicants for HIV as a condition of employment and fired or failed to hire them on that basis (see Section 5).

Conditions for agricultural workers were poor, particularly in the sugar industry. Most sugarcane worker villages lacked schools, medical facilities, running water, and sewage systems, and had high rates of disease. Company-provided housing was usually sub-standard (see Section 5). Approximately 83 percent of sugarcane workers were Haitian or of Haitian descent.

On sugar plantations, cane cutters usually were paid by the weight of cane cut rather than the hours worked. Employers sometimes did not provide trucks or carts to transport the newly cut cane at the conclusion of the workday, causing workers to receive lower compensation because the cane dried and then weighed less. The amount of cane a worker could cut varied, but many cane cutters earned less than \$3 (75 pesos) per day, and some reported earning as little as approximately \$1.50 (40 pesos) per day. Workers were paid every 2 weeks with tickets that were exchangeable for cash only in centers that often were far away. Because workers earned so little and sometimes could not wait to redeem their tickets, an informal barter system evolved in which the tickets were used to purchase items at private stores located on the plantations. These private stores made change by giving back a combination of tickets and cash, but the stores often retained 10 percent of the cash due a customer as a "service charge."

In various sugarcane industry shantytowns, field guards reportedly kept workers' clothes and documents to prevent them from leaving until the end of the harvest. Employers also withheld wages to keep workers in the fields. Sugarcane workers were paid less, worked longer hours, and had fewer benefits than workers in other industries. One monitor in a batey reported that laborers worked 14-16 hours per day—a violation of the Labor Code. Many older sugarcane workers, who had lived in sugarcane shantytowns for 50 years and longer, had not received pensions for which deductions had been taken from their pay. Several NGOs asserted that the privatization of the sugarcane industry was the reason the Government did not enforce protection laws for cane cutters' rights.

The San Pedro de Macoris Diocese, which had developed a proposed model work contract and had submitted it to the Vicini Consortium and other companies in 2001, continued to promote Haitian worker rights in the bateyes and to seek a work contract for Haitian workers. The Vicini Consortium undertook some initiatives to improve the living conditions of sugarcane workers; for example, they demolished a number of barracks that had provided unfit living space and replaced them with more modern structures.

The Dominican Social Security Institute (IDSS) sets workplace safety and health conditions. Both the IDSS and the Ministry of Labor had a small corps of inspectors charged with enforcing standards. The Secretariat of Labor had 220 active inspectors. Inspector positions customarily were filled through political patronage, and inspectors often took bribes from businesses. The Labor Code requires that employers provide a safe working environment; however, in practice, workers could not remove themselves from hazardous working situations without losing their jobs.